

# VIOLENCE AGAINST WOMEN: DOMESTIC VIOLENCE AND HUMAN TRAFFICKING



This Policy Brief highlights progress and outstanding issues related to violence against women (VAW). This is defined by the Declaration on the Elimination of Violence Against Women (1993) as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private”. The Government of Indonesia signed the Declaration in 2004 with other ASEAN countries and has put significant legislative and policy measures in place. However, slow and inadequate implementation continues to make women highly vulnerable to abuse throughout Indonesia. Efforts are needed now to strengthen law enforcement, educate service providers and the wider community about VAW and extend services for survivors of abuse and perpetrators in both urban and rural areas. The increasing trend of human trafficking for forced labor and prostitution demands a greater synchronized effort at the national level and a focus on transnational responses to improve prevention, protection, prosecution and reintegration.

## Current Status: • Domestic Violence

**Domestic violence has grown as a policy issue in Indonesia since 2004**

Law No. 23/2004 on Domestic Violence was a major achievement of the National Commission on Violence against Women and the women’s movement in Indonesia. The law expands the definitions of both domestic violence and potential victims of domestic violence, criminalizes sexual harassment for the first time in Indonesia, and acknowledges the rights of victims. Various facilities to assist victims were built in the 2004-2009 period, including Integrated Service

Centers for the Empowerment of Women and Children, Integrated Crisis Centers, and Special Service Rooms in a number of provinces and districts/cities. The National Development Plan 2010-2014 recognizes that steps for increasing the quality of protection to women and children need to be expanded across the country. In addition, the Roadmap for Accelerating the Millennium Development Goals (MDGs) has identified “improved protection for women against all forms of abuse” as a priority for achieving MDG3 for Gender Equality and makes a commitment to “improving the protection of women’s rights against all forms of violence through prevention, service support, and empowerment” (Bappenas, 2010)

## Implementation of legislation and policies is affected by the prevailing view that domestic violence is private matter.

Despite legislation aimed at changing community understanding about gender-based violence and providing services to victims, implementation is affected by the prevailing view that this is a private matter, supported by cultural and religious norms. Additionally there is no consensus on what constitutes VAW. However, Nahdlatul Ulama (NU) regards human trafficking as a form of slavery. As one of the largest independent Islamic organizations in the world, NU's fatwas carry much weight in Indonesian society. In their Fiqh Anti Trafficking publication of 2006, the organization released a Fatwa decision that forbid human trafficking and labeled it "Haram". But domestic violence has yet to be recognized by decision-makers and citizens as a serious social, economic, and governance issue. More needs to be done through enforcement of the law, research, education and services to strengthen prevention, protection, prosecution and recovery for victims, perpetrators and their children.

## The full economic and social costs of domestic violence need to be calculated.

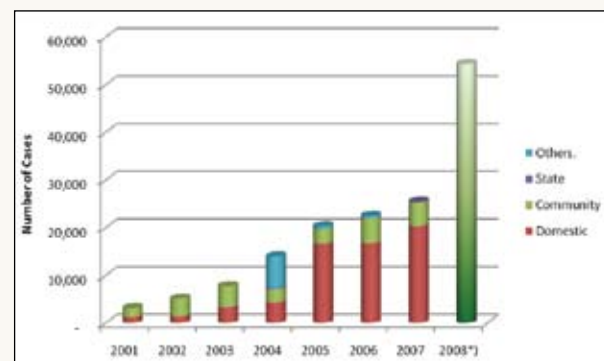
Impacts of violence for victims include anxiety and depression, physical stress, suicide attempts, reduced coping and problem-solving skills, and loss of self-esteem and confidence. Women are vulnerable on a personal level regardless of position, income or education. Children witnessing violence experience emotional and behavioral problems including poor school performance, stress, reduced social competence, bullying and excessive cruelty to animals, and relationship problems. These consequences of domestic violence for victims and witnesses result in a loss of productivity and significant demands on social services including health, police, legal, education, and

welfare. As yet, the full costs of domestic violence at individual, family and community level have not been quantified. This could help the Government and wider community to better understand the benefits that accrue from reductions in incidence of domestic violence.

## Domestic violence remains poorly documented with incomplete data on incidence.

Nationwide figures on domestic violence do not reveal the complete picture because of under-reporting. The independent National Commission on Violence against Women (*Komnas Perempuan*) recorded a doubling of reported cases in 2008 from 2007. 143,586 cases of violence were reported in 2009 compared to 54,425 cases in 2008 (see Figure 1), (*Komnas Perempuan*, 2010). The increase is attributed to better data collection and more women reporting cases but does little to lend understanding to the depth of the frequency of domestic violence, (*Komnas Perempuan* 2008). Estimates for 2010 of around 105,000 cases of violence show a slight decrease from 2009 (100,000 victims) with over 96% occurring in the home, (*Jakarta Post*, March 2011). But, as the Commissioner of *Komnas Perempuan*, remarked: "That number does not mean that the total and intensity of the violence has decreased", (*Suartika*, 2010).

Figure 1: Reported cases & type of violence 2010



Sumber: Komnas Perempuan, 2010

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A study in 2006 on conflict and dispute resolution that confirmed a rise in the number of reported cases, found that domestic violence was one of the seven highest types of conflict/dispute reported at the district level, (McLaughlin, 2010). Criminal activity and land/building disputes were the most common, followed by family-related disputes and domestic violence. Most NGOs working on women and children's issues believe the real figure of women affected by violence is far higher, noting the tendency of many victims to keep silent because of a lack of services and a view of domestic violence as a private issue, (UNUPR, 2008).

**Despite the expansion of institutions for assisting victims in recent years, services remain insufficient for the amount of women who suffer from violence in Indonesia.**

National institutions assisting survivors of violence include the military court, shelter and trauma centers established by the Ministry of Social Affairs, and the Women's and Children's Units (*Unit Pelayanan Perempuan dan Anak*), formerly the women's police desk, (*Ruang Pelayanan Khusus*). In 2008, Komnas Perempuan reported that there were 41 Women Crisis Centers, 23 Integrated Centers for the Empowerment of Women and Children, 129 police stations with services for women and children and 42 hospitals that provide services for women victims of violence, (*Komnas Perempuan, 2008*). These services are insufficient in number and capacity to meet demands, with numbers of reported cases reaching more than 50,000 in 2008. Diversity in every police force is essential to combat gendered crimes effectively. Police tend to ignore or de-prioritize certain crimes, including those crimes that affect women more than men, such as sexual abuse, domestic violence and trafficking. For example, services rarely report to the police while the

low numbers of trained female police officers can affect victims' willingness to report cases of violence. Gender training for police officers together with an acceleration program for women within the police force should be established. In addition, there are too few women law enforcement officers in the Criminal Research Department. Only 4% of investigating officers are women, which is insufficient to assist female victims of rape and domestic violence and to deal with female criminal suspects, (Amnesty International, 2009). Although the Indonesian Police Chief Regulation number 3/2008 states that there has to be a Special Service Room in every City/County Police Station to deal with sensitive cases including crimes against women, there are limited personnel to deal with those cases. Many women tend to report abuse to informal leaders and their village administrations (see Figure 2) and most cases are solved by informal leaders under close custody of village officials who can disregard protective legislation. According to an NGO, Rifka Anisa, only 10% of domestic violence cases end up in court, (Kompas, 2010).

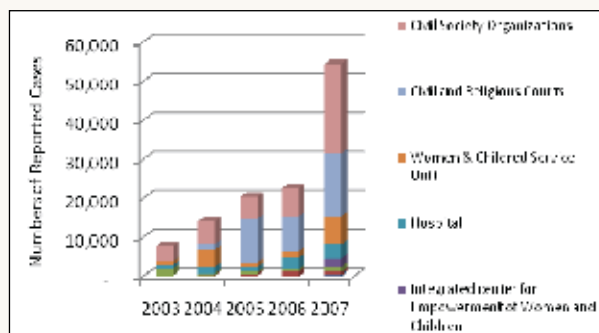
In addition, women face financial issues when trying to seek assistance offered by the government. Legal representation is required by law to be offered at a low-cost. However, NGOs and activists report that



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many women are deterred from seeking assistance because of the high fees for representation. The Indonesian Women's Association for Justice and Legal Aid Institute (LBH-APIK) is an organization providing legal support for women (free for those unable to pay) and campaigning for recognition of legal rights which has been active since 1995.

Figure 2: Cases of Violence against Women Reported to Service Providers



Source: Komnas Perempuan, 2008:58

**Local customary laws override the national domestic violence law, weakening promised protection for all women in Indonesia.**

Despite the issuing of Law No. 23/2004 on Domestic Violence, in several regions like Bali, for example, the local custom runs counter to Article 9 of the Domestic Violence Law, which states that people are banned from “bringing about economic dependence by limited or prohibiting an individual to work properly inside or outside the house”. Women in some districts in Bali handover all possessions to their husband when married, and lose everything in the case of divorce, (Jakarta Post, Sept 2010). Muslim women also lose assets and custody over children should they file for divorce with the use of ‘nusyuz’ principle. The national government needs to ensure that there is consistency between national and local laws in regards to the protection of women from violence and abuse. Local societies should be empowered to demand these protections and adequate services.

**Many women return to abusive homes in which they were abused, revealing the need for a more coordinated strategy to provide services for men.**

Rifka Annisa Women's Crisis Center in Yogyakarta estimates that 90% of women return to their husbands after abuse, (Jakarta post, Sept 2010). In light of this reality, little is being done by the government to counsel men who are abusing women in their lives. Under the 2004 Domestic Violence law, judges can order men to undergo counseling, but there are few government programs and it has fallen to the CSO sector to provide this service with minimal resources (See Box 1).

### Box 1: Rifka Annisa Women Crisis Center

Started in Jogjakarta in 2009, this counseling program helps men learn to manage their anger. Nur Hasyim from Rifka Annisa is optimistic about the program because to date 28 men have completed the program voluntarily. But he sees that men still struggle with sharing power in the home.

Source: Jakarta Post, December 2010.

## Current Status:

### • Human Trafficking

**Government commitment to address human trafficking is well-demonstrated.**

Law No. 21/2007 on the Eradication of the Criminal Act of Trafficking in Persons, also known as the Anti-Trafficking Law, signifies the Government of Indonesia's commitment to addressing the issues of human trafficking. Article 1 defines human trafficking as: “... an act of recruitment, transportation, harboring, sending, transfer, or receipt of persons, by means of threat, or use of violence, of coercion, of abduction, of fraud, of deception, of the abuse of power or vulnerable position, or the giving of payment or benefits to achieve consent of a



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*person in control of the other person, committed in the country or trans nations, for the purpose of exploitation".* This definition is consistent with the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against Trans-national Organized Crime. Indonesia ratified the UN Convention and the Protocol in 2009.

### Indonesia is both a source and transit and destination country for human trafficking.

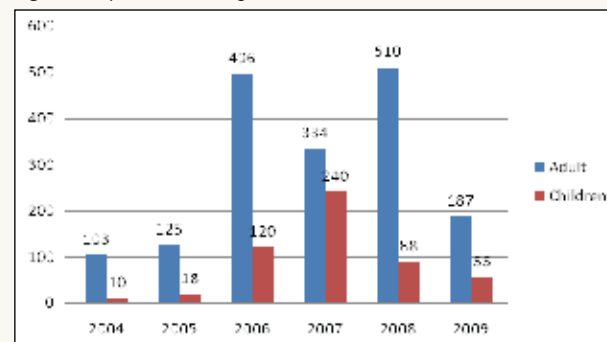
Many Indonesian migrant workers have gone to Malaysia, Singapore, Brunei, Taiwan, Japan, Hong Kong and the Middle East and end up trapped in commercial sex work. Indonesia is not only a sending country but also a recipient country of trafficked people. US Department of State Report noted that the majority destinations of the trafficking in Indonesia are areas in Java, West Kalimantan, Lampung, North and South Sumatra and Nusa Tenggara, (US Department of State, 2009), while UNICEF recognized that West Java and West Kalimantan are the main areas of origin for trafficking in Indonesia, (UNICEF, Child Trafficking 2010). In most cases, trafficking involves forced labour and forced prostitution and mostly occurred in border areas.

### Data on actual number of people trafficked is scattered and difficult to obtain.

UNICEF estimates that 100,000 women and children are trafficked annually for commercial sexual exploitation domestically and internationally, (UNICEF-CSEC, 2010). Many are likely to be young, given that 30% of female prostitutes in Indonesia are under 18, while 40,000-70,000 are victims of sexual exploitation. During the period of March 2005-December 2009, IOM assisted around 4,581 victims, including 3,330 females

and 885 children, (IOM, 2010). In the same period, the Indonesian Police Bareskrim (2009) reported 1,457 victims in 407 cases. The Legal Aid Foundation (LBH-APIK) in Pontianak noted at least 49 cases reported by the local media during the period of 2008 to 2010 and they helped to advocate 18 cases in West Kalimantan in the same period, (LBH APIK Pontianak, 2011). The Ministry of Women Empowerment and Children Protection (KPPA) confirmed that the trend from year to year shows that the majority of the cross-border human trafficking victims in Indonesia are women and girls with the main destination country is Malaysia (75%), (MoWECP, 2011). There is an iceberg phenomenon in which only a few numbers of cases are officially reported to the police every year.

Figure 3: Reported Trafficking Cases to Police 2004-2009



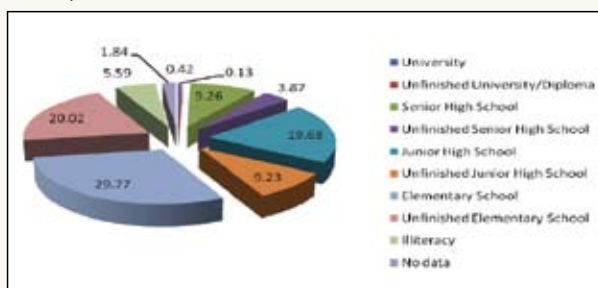
Source: MoWECP, 2010

### Female migrant workers, domestic workers in Indonesia and sex workers are vulnerable to trafficking as they lack legal protection and complaints mechanisms.

Women comprise around three-quarters of Indonesia's migrant workers, mostly in unregulated domestic work and continue to be one of the least protected in the region. Coming mostly from rural areas with low levels of education, they are vulnerable to unregulated recruitment practices, indebtedness,

exploitation and abuse. Women migrant workers are at risk of trafficking: 55% of trafficking victims assisted by International Office of Migrant in Indonesia were exploited domestic workers, 89 percent of whom were women, (Solidarity Center, 2010). There is a correlation between the level of education and the incidents of human trafficking. Most of the victims of human trafficking are those that the education are junior high school or below (see Figure 4).

**Figure 4:** Level of Education of the Indonesian Trafficking Victims (March 2005-Sept 2009)



Source: IOM as quoted by MoWCEP, 2010

### Different interpretation of human trafficking and lack coordination among authorities.

Civil Society Organization (CSOs) suggested that key challenges in the implementation of the Anti Trafficking Law are mainly due to lack of understanding of the authorities on the human trafficking itself and lack of coordination among government agencies in addressing the issue. The Anti Trafficking Law is interconnected with other laws such as the Law on Child Protection, on Immigration, on Crime, on Migrant Workers on Manpower, on Citizenship, on Protection of Witnesses and Victims and on Placement of Indonesian Migrant Workers Overseas. In many cases, the perpetrators of human trafficking were prosecuted not by the Human Trafficking Law but by other laws such as the Indonesian Criminal Law (KUHP) or Labor Law as in the case of cross-border forced labour cases. In cases involving cross-border child prostitution, of-

ten the perpetrators were prosecuted under the Child Protection Law which provides for lesser penalties. Improved collaboration between governments will better protect the victims, prosecute the proponents and disrupt traffickers' networks. Similarly, CSOs must continue to take part in the overall effort to combat trafficking and participate in all dialogues related to prevention of and response to human trafficking.

## Policy Issues

**Indonesia is a signatory to regional and international covenants that must be adhered to and respected.**

Indonesia is signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and ratified the Convention in 1984 (with reservations). In addition, an Optional Protocol to the CEDAW was signed by the Indonesian Government in 2000. The Convention defines violence as any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. At the regional level, the Foreign Ministers of the ASEAN countries signed a Declaration on the Elimination of Violence against Women on June 13, 2004. The Declaration encourages regional cooperation in collecting and disseminating data for righting violence against women, promotes holistic and integrated approaches in eliminating violence against women, and endorses the conduct of gender mainstreaming and the amending and formulating of domestic laws to prevent violence against women. ICPD+15, suggested a more comprehensive approach that addresses the root causes of migrant workers, reintegration process of returning migrants,

and more intensive cooperation and dialogue with recipient countries may need to also be envisaged.

### Law No. 23/2004 on Domestic Violence was a major achievement of the National Commission on Violence against Women.

This law expands the definitions of both domestic violence and potential victims of domestic violence, criminalizes sexual harassment for the first time in Indonesia, and acknowledges the rights of victims. These rights include 1) protection of the victim by the police, judiciary, court, lawyers and social institutions; 2) medical service in accordance with the victim's medical needs; 3) the victim's right to confidentiality; 4) support by social workers and provision of legal aid at every stage of the investigation; and 5) counseling services.

### Regulations and guidelines to improve services for victims of violence have been developed.

Assistance to victims was expanded through the 2002 Joint Agreement Letter between the State Minister for Women's Empowerment and Child Protection, the Minister of Health, the Minister of Social Affairs, and the Chief of National Police, that provides for integrated physical, psychological, medication and treatment, social and legal services. Ministerial Regulation No. 1/2010 stipulates that funds to support services for victims can come from both national and local budgets while Ministry of Women Empowerment's Regulation 1/2010 on Minimum Service Standard establishes the baseline level for delivery of those services. However, with most funds for the service centers coming from the local government, private donation and/or donor funding to NGOs, it is questionable how far minimum standards can be met.

### The National Commission on Violence against Women (Komisi Nasional Kekerasan Terhadap Perempuan) has been influential but is constrained by limited authority

Komnas Perempuan was established in October 1999 by Presidential Decree No. 181 to increase public awareness about women's rights, promote survivors' rights to recovery and rehabilitation, and advocate for more effective policy to address violence against women (see Box 2). It is the only institution that continuously compiles national data on violence against women. It has worked closely with 367 community-based organizations around Indonesia and the Asia-Pacific region and international networks to develop national measures to combat all forms of violence against women. But the Commission is under the direction and authority of Komnas HAM which limits its authority and ability to propose budgets and influence government policy.

#### Box 2: Vision of Komnas Perempuan

The National Commission on Violence against Women aims to help create an Indonesia "in which social structures as well as patterns of relations and behavior are conducive to the creation of peaceful life, in which there exists respect for diversity, as well as freedom from fear and from threats and acts of violence and discrimination, so that each woman can enjoy her basic rights as a human being."

### Procedures and mechanisms to support the implementation of the Anti-Trafficking Law have been formulated.

The Government has recognized the problem and taken action in four areas: prevention, protection, reintegration and prosecution. Since the implementation of the law 21/2007, the US Trafficking in Persons Report (2008) noted the significant increase in the arrests, prosecutions and convictions of human trafficking cases especially for traffickers of sexual exploitation. Under the law, penalties to traffickers range from

three to fifteen year of imprisonment. The Presidential Decree No. 69/2008 established task forces at different levels to improve coordination and monitoring of the implementation of the Law. The national-level Task Force, led by the Coordinating Ministry of People's Welfare, has 19 related government institutions while task forces have been formed in 18 provinces and 60 Districts. Ministerial Decree No. 25/2009 stipulates a National Plan of Action (NPA) on the Elimination of Human Trafficking and Child Sexual Exploitation which essentially aims to improve collaboration, explore bilateral agreements between Indonesia and the recipient countries in protecting migrant workers, establish a prevention system, educate government and community about human trafficking, enforce the implementation of the laws and establish legal aid and referral system for victims. The Ministry of Women's Empowerment and Child Protection has conducted a series of anti-trafficking training in all 33 provinces and six provinces and two cities have developed their own NPAs. The Provinces of West and East Java, North Sumatera, Riau, South and North Sulawesi, Lampung, West and East Kalimantan, Nusa Tenggara and Districts of Sambas and Indramayu have all issued local regulations (PERDA) on Trafficking in Persons.



## Joint efforts are made by ASEAN to tackle cross-border cases.

In October 2010, the Association of Southeast Asian Nations (ASEAN) launched the ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases which provides a step-by-step guide to prosecute trans-national cases. The Handbook helps to improve the cooperation between criminal justice officials involved in cross-border trafficking investigations.

## Recommendations

- Police Department, Ministry of Law and Human Rights, Attorney General Office to strengthen implementation of the Domestic Violence Law by educating and training police officers, prosecutors, judges and new recruits in these professions. Even though the Domestic Violence Law stipulates that victims of domestic violence do not need to complain first to the police before they take any action against the perpetrator, still most police officer are not responsive in handling domestic violence. Perception that domestic violence is a personal and internal family affairs remains strong amongst enforcement agencies' officer. Proper understanding of the matter through training in the police academy and training, in guideline and regulations from the attorney general office, is needed.
- Ministry of National Education, Ministry of Information, Association of teachers and local governments to work together to improve citizens' knowledge of the law regarding the protection of women from violence through public and formal education. Many perpetrators of domestic violence are merely perpetuating their childhood experience and imitating gender-based violence behaviors that are tolerated by the society. Changing the perception that domestic violence is not a



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private matter and it is punishable by law should start at school and other public announcements. Participation of men in building this new culture and understanding is also important.

- The Indonesian President must immediately declare legally null and void all discriminatory local by-laws that violate the human rights of citizens and fail to protect women from violence and marginalization, especially the violations experienced by women and minority groups, in accordance to the responsibility of the state to uphold human rights.
- Ministry of Law and Human Rights, Ministry of Religious Affairs, local government and Ministry of Home Affairs to conduct gender training for religious court judges. The training will provide necessary argument on the issue of domestic violence and the use of Domestic Violence Law as their consideration to avoid women victims of domestic violence losing their assets and custody over their children.
- Ministry of Law and Human Rights to increase the amount of shelters and relief services for victims of violence including corrective counseling for perpetrators of domestic violence, as specified in the 2004 Domestic violence law and provide adequate funds for those services.
- Encourage local governments to increase the amount of shelters and relief support centers for women who have been subjected to violence, including medical, psychological, and other counseling services and free or low-cost legal aid. Judges must more frequently order men to undergo counseling because most women return to their homes after abuse and violence. Without systematic measures to help and assist the perpetrators, violence will continue. Funds need to be allocated to district and municipality courts as well as to family courts

to hire counselors for battered victims and to correct the behavior of the perpetrators.

- Establish a national standard and requirement for compiling data on violence against women which can be used as an advocacy tool to urge the government to address specific issues. Research regarding the impacts of violence against women should be supported by the Government, results of which can be used to create better assistance and prevention policy and awareness-raising strategies. In addition, develop and support a regional database on trafficked persons, and facilitate exchange of information and repatriation. Institutions that handled victims of violence such as hospitals and Puskesmas need to be given guidance on reporting the cases to the police.
- Strengthen implementation of Law No 21/2007 among law enforcers. The Law 21/2007 is interconnected with other laws such as the Law on Child Protection, on Immigration, on Crime, on Migrant Workers, on Manpower, on Citizenship, on Protection of Witnesses and Victims and on Placement of Indonesian Migrant Workers Overseas. The integration of the Laws into the educational curriculum for training new police, prosecutors and judges' new recruits could be one of the strategy to increase the knowledge and skills of the law enforcers in handling the cases of human trafficking.
- Improve government's measures to protect migrant workers through legislation, compliance mechanisms, support services and training for new police entrants.
- Improve Regional Cooperation to Prevent and Address Trafficking Issues. Considering the nature of the human trafficking itself, more solid and integrated cooperation among countries of the ASEAN need to be done.

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